



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 5

77 WEST JACKSON BOULEVARD

CHICAGO, IL 60604-3590

REPLY TO THE ATTENTION OF:

NOV 19 2012

SR-6J

GENERAL NOTICE LETTER

URGENT LEGAL MATTER

CERTIFIED MAIL: RETURN RECEIPT REQUESTED

Ruth Chizum
56328 Ash Road
Osceola, Indiana 46561

RE: General Notice for the Conrail Rail Yard Site in Elkhart, Indiana
CERCLIS No: IND000715490

US EPA RECORDS CENTER REGION 5



444857

Dear Ms. Chizum:

The U.S. Environmental Protection Agency, under the Comprehensive Environmental Response, Compensation, and Liability Act, as amended, (CERCLA) is responsible for responding to the release or threat of release of hazardous substances, pollutants or contaminants into the environment, for stopping further contamination from occurring and for cleaning up or otherwise addressing any contamination that has already occurred. EPA has documented that such a release has occurred at the Conrail Rail Yard Site (Site) located in Elkhart, Indiana. Based on information presently available to EPA, it has been determined that you may be responsible under CERCLA for cleanup of the Site or costs EPA has incurred in cleaning up the Site.

Explanation of Potential Liability

Under CERCLA, specifically Sections 106(a) and 107(a), Potentially Responsible Parties (PRPs) may be required to perform cleanup actions to protect the public health, welfare or the environment. Under Section 107(a) of CERCLA, PRPs may be held liable for all costs EPA incurs in responding to any release or threatened release of hazardous substances at the site, unless the PRP can show divisibility or any of the other statutory defenses. PRPs include current and former owners/operators of the site, persons who arranged for treatment and/or disposal of any hazardous substances found at the site, and persons who accepted hazardous substances for transport and/or selected the site to which the hazardous substances were delivered.

Based on the information collected, EPA believes that you may be liable under Section 107(a) of CERCLA with respect to the Conrail Rail Yard Site, as a current or previous owner and/or operator of part of the Site, located at 56328 Ash Road, Osceola, Indiana, where hazardous substances have been deposited, disposed of, placed or otherwise come to be located.

To date, EPA, the State of Indiana, and certain Potentially Responsible Parties have taken several response actions at the Site under the authority of the Superfund Program. Below is a brief description of the actions taken at the Site:

- An Interim Record of Decision was issued on June 28, 1991, which included providing an alternate water supply to 400 residents.
- A Remedial Investigation and Feasibility Study (RI/FS) to identify the Site characteristics, the nature and extent of contamination, the risks posed by the Site and then to evaluate remedial alternatives, was completed in April 1994.
- A Record of Decision was issued on September 9, 1994 by EPA that selected the Final Remedial Action for the Site. The Final Remedial Action included, in part, extension of the municipal water supply system to 1,125 residents, additional source investigations, ground water extraction and treatment, monitoring, and institutional controls.
- A Consent Decree was entered into between EPA and Consolidated Rail Corporation and Penn Central Corp. (Settling Parties) on November 10, 1997 that required the Settling Parties to carry out the selected remedial action for the site.
- The Remedial Action (RD/RA) to implement the selected remedy for the Site is currently being conducted.

Other actions that U.S. EPA and/or PRPs may conduct include:

- Activities to monitor, operate and maintain the cleanup action after remedy construction is complete.

Additional information about EPA's activities related to the Site is available at:

<http://www.epa.gov/region5/cleanup/conrail>

Financial Concerns/Ability to Pay Settlements

U.S. EPA is aware that the financial ability of some PRPs to contribute toward the payment of response costs at a site may be substantially limited. If you believe, and can document, that you are financially unable to fully contribute to U.S. EPA's costs or the cleanup, please contact Marsha Adams, Enforcement Specialist, at 312-353-9484 for information on "Ability to Pay Settlements". You will receive a package of information about such settlements and a form to fill out with information about your finances. You will also be asked to submit financial records including federal income tax returns.

Also, please note that because U.S. EPA has a potential claim against you, if your financial status changes in any significant way, i.e., filing for bankruptcy, you must include U.S. EPA as a creditor.

Information to Assist Potentially Liable Parties

U.S. EPA would like to encourage communication between you, U.S. EPA and other PRPs at the Site. To assist you in your efforts to communicate, please find the following attached information:

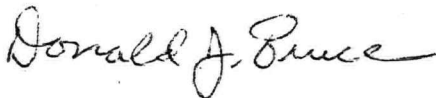
1. A list of names and addresses of PRPs at the Site who have entered into a Consent Decree with EPA.
2. A fact sheet that describes the Site

EPA has established an Administrative Record that contains documents that serve as the basis for EPA's selection of a cleanup action for the Site. The Administrative Record is located at the Elkhart Public Library Reference Desk, 300 S. Second Street, Elkhart, Indiana. It is available to you and the public for inspection and comment. The Administrative Record is also available for inspection and comment at the Superfund Records Center, on the seventh floor at EPA Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604.

If you have questions concerning this letter, please contact Timothy Drexler, Remedial Project Manager at (312) 353-4367. Direct any legal questions to Michael Berman of the Office of Regional Counsel at (312) 886-6837.

Thank you for prompt attention to this matter.

Sincerely,



for Thomas Short, Chief
Remedial Response Branch #2

Enclosures

1. List of PRPs
2. Fact Sheet

Enclosure 1

List of Contacts for Potentially Responsible Parties:

American Premier Underwriters (formerly Penn Central Corp.)

Margaret A. Hill

Blank Rome LLP

One Logan Square

130 North 18th Street

Philadelphia, PA 19103-6998

Norfolk Southern Railway Company (Conducting the work at the Site on behalf of Conrail)

Janet L. Scagnelli

Associate General Counsel

1717 Arch Street, 49th Floor

Philadelphia, Pennsylvania 19103-2825

Enclosure 2

Site Background

The Conrail Rail Yard Site is located adjacent to and within the southwestern city limits of Elkhart, Indiana. The Site, which includes a rail yard, drag strip, and other areas of contamination, encompasses roughly 2500 acres. The rail yard (Rail Yard Area) is an electronically controlled hump yard operated by Norfolk Southern Corporation which serves as a classification distribution yard for freight cars. The Osceola Dragway (the Drag Strip Area) is a commercial drag racing facility. Additionally, there are several light industrial properties located within the study area as well as several residential areas comprised mainly of single-family homes. Chemical contaminants at the Conrail Rail Yard Site consist primarily of trichloroethylene (TCE) and carbon tetrachloride (CCl₄) in soil and groundwater at the Rail Yard Area and of CCl₄ in soil and groundwater at the Drag Strip Area near the Vistula Avenue residential area.

The Rail Yard Area, which comprises approximately 675 acres, began operations in 1956 as part of the New York Central Railroad and continued operations as a subsidiary of the Penn Central Transportation Company until 1976. In the early 1960s, a railcar containing carbon tetrachloride was punctured, and the contents were emptied onto the ground. From 1962 to 1968, numerous citizens' complaints were filed regarding oil discharges. In 1976, Conrail took over the rail yard's functions. From 1976 to 1986, the rail yard experienced spills and releases of oil, diesel fuel, hydrochloric acid, caustic soda, and various petroleum-related substances. Track-cleaning fluids and engine degreasers were also used and disposed of at the site. In 1986, the United States Environmental Protection Agency (U.S. EPA) discovered volatile organic compounds (VOCs) in the groundwater near the site. Before any site response actions were taken, the population north and west of the site obtained its drinking water from private residential wells. Further north and east of the site, the Elkhart Water Works serves approximately 41,000 people.

Site Responsibility

This site is being addressed through potentially responsible parties' actions conducted under federal enforcement actions.

Threats and Contaminants

Two ground water contaminant plumes are present at the Site. One plume, called the "County Road 1 Plume" and containing high levels of trichloroethylene (TCE) and carbon tetrachloride (CCl₄), emanates from the Rail Yard Area and trends northwest to the Vistula

Avenue residential area. The second plume, called the "LaRue Street Plume" and containing TCE, emanates from the eastern portion of the Rail Yard Area and flows north to the La Rue Street residential area.

Wells in the vicinity of the Site were found to contain up to 5,000 parts per billion (ppb) CCl₄ and similar concentrations of TCE. (Bottled water and filters were provided immediately to residents when discovered.) Additionally, nine residences had indoor vapor levels of carbon tetrachloride that exceeded an action level.

Potential health threats could be posed by consuming contaminated groundwater or inhaling the chemical solvents if venting indoors.

Cleanup Progress

A Unilateral Administrative Order (UAO) was issued to Conrail and Penn Central by EPA in 1992 ordering them to implement the remedy selected as documented in the 1991 Record of Decision (ROD). Conrail complied with this UAO. Approximately 458 of the 475 residences and businesses were hooked up to the Elkhart city water supply by spring 1996. The remaining 27 residences refused access.

In 1995, a UAO was issued to Conrail and Penn Central to perform the additional hookups to the Elkhart city water supply that were required under an additional selected remedy as documented in the final 1994 ROD. Both companies complied with this UAO. Approximately 648 of the 683 residences and businesses were provided with an alternate water supply (35 residences refused access).

The other portions of the final remedy, including implementing the groundwater remedy and testing and cleaning up VOC vapors in basements in a small area near the Osceola Drag Way, were implemented under a Consent Decree (CD) with Conrail and Penn Central. The Consent Decree is a legal document, signed by a judge that formalized an agreement between EPA and Conrail and Penn Central. This CD was entered on November 10, 1997. VOC vapor testing was performed from late 1998-2000, and nine homes were found to have carbon tetrachloride vapor levels above the level of concern for the site. These homes have been provided with basement venting units, which have successfully mitigated the vapors.

A Record of Decision Amendment, which documented a technical impracticability waiver for the ground water source contamination on the rail yard, was executed on September 27, 2000. The result of the ROD Amendment was that the source areas on the rail yard were hydraulically contained instead of restoring the source areas to below drinking water standards. Construction of that system and a pilot system for the Drag Strip Area were completed in June

2004. A five year review was completed on September 27, 2004. This review indicated that the remedy for the Site continued to be protective of human health and the environment.

A third Five-Year Review of the site was completed by EPA on June 15, 2009. That review concluded that the ground water remedy is not operating as intended and that some ground water contamination is escaping the capture system. EPA considered the site remedy protective in the short term due to the provision of municipal water to the residents and soil-vapor extraction systems in some homes, but that the remedy lacked long term effectiveness. Subsequently, EPA requested that the potentially responsible parties (PRPs) develop a work plan to address the issues raised in the Five-Year Review. EPA approved an initial work plan and the PRPs initiated an investigation in 2009.

The PRPs' investigation of the drag strip and rail yard areas, that included soil borings, ground water sampling and the installation of new monitoring wells, is complete. In addition, pressure tests were conducted at both the rail yard and the drag strip areas to determine the extent of contaminated ground water capture by the ground water treatment systems. Results from the investigation showed that additional remedial actions are necessary at both the rail yard area and the drag strip area. EPA has approved the final design for the rail yard area which includes the installation of two additional extraction wells on the western end of the current line of containment wells and modifications to the treatment system. Construction at the rail yard area is substantially complete and pressure tests of the modified system are planned for October-November 2012.

Additional Remedial Actions will also be needed at the Drag Strip Area. Draft Remedial Design documents for the Drag Strip Area are expected for EPA review in October 2012. Based on EPA approval, construction should begin during winter 2012-13.

EPA also requested modifications to the Vapor Intrusion (VI) monitoring at the site based on the results of the 2009 Five-Year Review. EPA approved the PRP Group's revised monitoring plan in March 2012 and the new monitoring plan is now being implemented by the PRP Group.